

109TH CONGRESS
2D SESSION

H. R. 5746

To amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2006

Mr. GILLMOR (for himself and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Industrial Bank Hold-
5 ing Company Act of 2006”.

6 **SEC. 2. INDUSTRIAL BANK HOLDING COMPANY REGULA-**
7 **TION.**

8 (a) DEFINITIONS.—

9 (1) INDUSTRIAL BANK.—Section 3(a) of the
10 Federal Deposit Insurance Act (12 U.S.C. 1813(a))

1 is amended by adding at the end the following new
2 paragraph:

3 “(5) INDUSTRIAL BANK.—The term ‘industrial
4 bank’ means any insured State bank that is an in-
5 dustrial bank, industrial loan company, or other in-
6 stitution described in section 2(c)(2)(H) of the Bank
7 Holding Company Act of 1956.”.

8 (2) INDUSTRIAL BANK HOLDING COMPANY.—
9 Section 3(w) of the Federal Deposit Insurance Act
10 (12 U.S.C. 1813(w)) is amended by adding at the
11 end the following new paragraph:

12 “(8) INDUSTRIAL BANK HOLDING COMPANY.—
13 The term ‘industrial bank holding company’ means
14 any company that—

15 “(A) controls (as determined by the Cor-
16 poration), directly or indirectly, any industrial
17 bank; and

18 “(B) is not a bank holding company, a
19 savings and loan holding company, or a com-
20 pany that is subject to the Bank Holding Com-
21 pany Act of 1956 pursuant to section 8(a) of
22 the International Banking Act of 1978.”.

23 (3) TECHNICAL AND CONFORMING AMEND-
24 MENTS TO OTHER DEFINITIONS.—

1 (A) APPROPRIATE FEDERAL BANKING
 2 AGENCY.—Section 3(q)(3) of the Federal De-
 3 posit Insurance Act (12 U.S.C. 1813(q)(3)) is
 4 amended—

5 (i) by striking “or a foreign” and in-
 6 serting “, any foreign”; and

7 (ii) by inserting “, and any industrial
 8 bank holding company” after “insured
 9 branch”.

10 (B) DEPOSITORY INSTITUTION HOLDING
 11 COMPANY.—Section 3(w)(1) of the Federal De-
 12 posit Insurance Act (12 U.S.C. 1813(w)(1)) is
 13 amended—

14 (i) by striking “or a savings” and in-
 15 serting “, any savings”; and

16 (ii) by inserting “, and any industrial
 17 bank holding company” before the period
 18 at the end.

19 (b) INDUSTRIAL BANK HOLDING COMPANY REG-
 20 ISTRATION AND OWNERSHIP.—The Federal Deposit In-
 21 surance Act (12 U.S.C. 1811 et seq.) is amended by add-
 22 ing at the end the following new section:

23 **“SEC. 50. INDUSTRIAL BANK HOLDING COMPANY REGULA-**
 24 **TION.**

25 **“(a) REGISTRATION.—**

1 “(1) IN GENERAL.—Within 90 days after be-
2 coming an industrial bank holding company, each in-
3 dustrial bank holding company shall register with
4 the Corporation on forms prescribed by the Corpora-
5 tion.

6 “(2) INFORMATION TO BE INCLUDED.—Each
7 registration submitted under paragraph (1) shall in-
8 clude such information, under oath, with respect to
9 the financial condition, ownership, operations, man-
10 agement, and intercompany relationships of the in-
11 dustrial bank holding company and subsidiaries of
12 such holding company, and other factors (including
13 information described in subsection (b)(1)(C)), as
14 the Corporation may determine to be appropriate to
15 carry out the purposes of this section.

16 “(3) EXTENSION OF TIME FOR SUBMITTING
17 COMPLETE INFORMATION.—Upon application by an
18 industrial bank holding company and subject to such
19 requirements, factors, and evidence as the Corpora-
20 tion may require, the Corporation may extend the
21 period described in paragraph (1) within which such
22 company shall register and file the requisite infor-
23 mation.

24 “(4) APPLICATION TO PRIOR HOLDING COMPA-
25 NIES.—In the case of any company that becomes an

1 industrial bank holding company by virtue of the en-
2 actment of the Industrial Bank Holding Company
3 Act of 2006, the 90-day period referred to in para-
4 graph (1) shall begin on the date of the enactment
5 of such Act.

6 “(b) REPORTS AND EXAMINATIONS .—

7 “(1) REPORTS.—

8 “(A) REPORTS REQUIRED.—Each indus-
9 trial bank holding company and each subsidiary
10 of an industrial bank holding company, other
11 than an industrial bank, shall file with the Cor-
12 poration such reports as may be required by the
13 Corporation.

14 “(B) FORM AND MANNER.—Reports filed
15 under subparagraph (A) shall be made under
16 oath and shall be in such form and for such pe-
17 riods, as the Corporation may prescribe.

18 “(C) INFORMATION.—Each report filed
19 under subparagraph (A) shall contain such in-
20 formation as the Corporation may require con-
21 cerning—

22 “(i) the operations of the industrial
23 bank holding company and its subsidiaries;

24 “(ii) the financial condition of the in-
25 dustrial bank holding company and such

1 subsidiaries, together with information on
2 systems maintained within the holding
3 company for monitoring and controlling fi-
4 nancial and operating risks, and trans-
5 actions with industrial bank subsidiaries of
6 the holding company;

7 “(iii) compliance by the industrial
8 bank holding company and its subsidiaries
9 with all applicable Federal and State law;
10 and

11 “(iv) such other information as the
12 Corporation may require.

13 “(D) ACCEPTANCE OF EXISTING RE-
14 PORTS.—For purposes of this paragraph, the
15 Corporation may accept reports that an indus-
16 trial bank holding company or any subsidiary of
17 such company has provided or has been re-
18 quired to provide to any other Federal or State
19 supervisor or to any appropriate self-regulatory
20 organization.

21 “(2) EXAMINATIONS.—

22 “(A) IN GENERAL.—Each industrial bank
23 holding company and each subsidiary of each
24 such holding company (other than an industrial
25 bank) shall be subject to such examinations by

1 the Corporation as the Corporation may pre-
2 scribe for purposes of this section.

3 “(B) FURNISHING REPORTS TO OTHER
4 AGENCIES.—Examination and other reports
5 made or received under this section may be fur-
6 nished by the Corporation to any other Federal
7 agency or any appropriate State bank super-
8 visor.

9 “(C) USE OF REPORTS FROM OTHER
10 AGENCIES.—The Corporation may use, for the
11 purposes of this subsection, reports of examina-
12 tion made by any other Federal agency or any
13 appropriate State bank supervisor with respect
14 to any industrial bank holding company or sub-
15 sidiary of any such holding company, to the ex-
16 tent the Corporation may determine such use to
17 be feasible for such purposes.

18 “(c) LIMITATION ON CONTROL.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (3) or (4), no industrial bank may be con-
21 trolled, directly or indirectly, by a commercial firm.

22 “(2) COMMERCIAL FIRM DEFINED.—For pur-
23 poses of this section, the term ‘commercial firm’
24 means any entity at least 15 percent of the annual
25 gross revenues of which on a consolidated basis, in-

cluding all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters, as determined by the Corporation in accordance with regulations which the Corporation shall prescribe.

“(3) PRE-2003 EXCLUSIONS.—

“(A) GRANDFATHERED INSTITUTIONS.—

Paragraph (1) shall not apply with respect to any industrial bank—

“(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

“(ii) with respect to which there is no change in control, directly or indirectly, of the bank after September 30, 2003, that requires a registration under this section or an application under section 7(j) or 18(c), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners’ Loan Act.

1 “(B) CORPORATE REORGANIZATIONS PER-
2 MITTED.—The acquisition of direct or indirect
3 control of the industrial bank referred to in
4 subparagraph (A)(ii) shall not be treated as a
5 ‘change in control’ for purposes of such sub-
6 paragraph if the company acquiring control is
7 itself directly or indirectly controlled by a com-
8 pany that was an affiliate of such bank on the
9 date referred to in such paragraph, and re-
10 mains an affiliate at all times after such date.

11 “(4) PRE-2006 EXCLUSIONS.—

12 “(A) GRANDFATHERED COMMERCIAL
13 FIRMS.—Paragraph (1) shall not apply to any
14 commercial firm—

15 “(i) which became an industrial bank
16 holding company by virtue of acquiring
17 control of an industrial bank on or after
18 October 1, 2003, and before June 1, 2006;

19 “(ii) which does not acquire control of
20 any other depository institution after May
21 31, 2006;

22 “(iii) with respect to which there is no
23 change in control, directly or indirectly, of
24 any depository institution subsidiary after
25 June 1, 2006, that requires a registration

1 under this section or an application under
2 section 7(j) or 18(c), section 3 of the Bank
3 Holding Company Act of 1956, or section
4 10 of the Home Owners' Loan Act; and

5 “(iv) each industrial bank subsidiary
6 of which remains in compliance with the
7 limitations contained in subparagraph (B).

8 “(B) ACTIVITY AND BRANCHING LIMITA-
9 TIONS.—An industrial bank subsidiary of a
10 commercial firm described in clauses (i), (ii)
11 and (iii) of subparagraph (A) is in compliance
12 with the requirements of this subparagraph for
13 purposes of subparagraph (A)(iv) so long as the
14 industrial bank—

15 “(i) engages only in activities in which
16 the industrial bank was engaged on May
17 31, 2006; and

18 “(ii) does not acquire, establish, or
19 operate any branch, deposit production of-
20 fice, loan production office, automated tell-
21 er machine, or remote service unit in any
22 State other than the home State of the
23 bank or any host State in which such bank
24 operated branches on May 31, 2006.

1 “(C) CORPORATE REORGANIZATIONS PER-
2 MITTED.—The acquisition of direct or indirect
3 control of a depository institution subsidiary re-
4 ferred to in subparagraph (A)(iii) shall not be
5 treated as a ‘change in control’ for purposes of
6 such subparagraph if the company acquiring
7 control is itself directly or indirectly controlled
8 by a company that was an affiliate of such sub-
9 sidiary on the date referred to in such para-
10 graph, and remains an affiliate at all times
11 after such date.

12 “(5) TRANSITION PROVISION.—Any divestiture
13 of any industrial bank by an industrial bank holding
14 company that is required by operation of this section
15 shall be completed as quickly as is reasonably pos-
16 sible and not later than the end of the 2-year period
17 beginning on the earliest of, as appropriate—

18 “(A) the date on which control of the in-
19 dustrial bank is acquired by a commercial firm;

20 “(B) the date on which the industrial bank
21 holding company that controls such bank be-
22 comes a commercial firm; or

23 “(C) the date on which an industrial bank
24 subsidiary of the industrial bank holding com-

1 pany ceases to comply with any limitation appli-
2 cable to such bank under paragraph (4)(B).

3 “(d) ADMINISTRATIVE PROVISIONS.—

4 “(1) AGENT FOR SERVICE OF PROCESS.—The
5 Corporation may require any industrial bank holding
6 company, or persons connected with such holding
7 company if it is not a corporation, to execute and
8 file a prescribed form of irrevocable appointment of
9 agent for service of process.

10 “(2) RELEASE FROM REGISTRATION.—The Cor-
11 poration may at any time, upon the Corporation’s
12 own motion or upon application, release a registered
13 industrial bank holding company from any registra-
14 tion previously made by such company, if the Cor-
15 poration determines that such company no longer
16 controls any industrial bank.”.

17 (c) ENFORCEMENT.—Section 8(b) of the Federal De-
18 posit Insurance Act (12 U.S.C. 1818(b)) is amended by
19 adding at the end the following new paragraph:

20 “(11) INDUSTRIAL BANK HOLDING COMPA-
21 NIES.—This subsection and subsections (c) through
22 (s) and subsection (u) of this section shall apply to
23 any industrial bank holding company, and to any
24 subsidiary (other than an industrial bank) of an in-
25 dustrial bank holding company in the same manner

1 as such subsections apply to State nonmember
2 banks.”.

3 (d) TECHNICAL AND CONFORMING AMENDMENT.—
4 Section 10(e)(2) of the Federal Deposit Insurance Act (12
5 U.S.C. 1820(e)(2)) is amended by inserting “or section
6 50(b)(2)” after “subsection (b)(4)”.

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